

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:12-cv-00288-MR-DLH**

**MONUMENTAL LIFE INSURANCE
COMPANY,**

Plaintiff,

vs.

ORDER

**MICHAEL H. McCRAW; BILL
COOPER SELLERS, JR., Individually
and as Co-Administrator of the
Estate of Theresa Marie Hartley
McCraw; and JACK NELSON
HOPPES, JR., Individually and as
Co-Administrator of the Estate of
Theresa Marie Hartley McCraw,**

Defendants.

THIS MATTER is before the Court on the Plaintiff's Consent Motion for Discharge from Further Liability, Permanent Injunction, and Dismissal with Prejudice [Doc. 13].

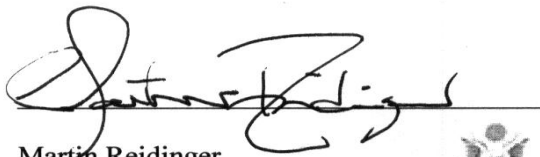
The Plaintiff represents in its Motion that the Defendants consent to the Motion and the relief requested therein. The Defendants, however, have not yet made appearances in this action. While the record indicates

that they have been served with process [see Docs. 9, 10, 12], the Defendants have not answered or otherwise responded to the Plaintiff's Complaint. Moreover, Plaintiff's counsel represents in his motion that he has consulted with the Defendants' counsel regarding the motion, and even identifies in his certificate of service certain attorneys who are presumably the attorneys to which he makes reference. These attorneys, however, have never appeared as counsel of record in this matter. Therefore, Plaintiff's counsel's representation to this Court regarding his consultation is not accurate. For these reasons the Plaintiff's Motion is premature and will be denied without prejudice.

IT IS, THEREFORE, ORDERED that the Plaintiff's Consent Motion for Discharge from Further Liability, Permanent Injunction, and Dismissal with Prejudice [Doc. 13] is **DENIED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

Signed: January 24, 2013


Martin Reidinger
United States District Judge

